

Remarks

The Nonstatutory Double Patenting Rejection of Claims 1 and 21

The Examiner has rejected Claims 1 and 21 under the doctrine of obviousness-type double patenting as unpatentable over Claim 1 of United States Patent No. 6,709,021 issued to Duane J. Duncan and David W. Mielke, Jr., Applicants of the instant application. In Attachment I of this Reply, Applicants have filed a Terminal Disclaimer under 37 CFR 1.321 (c) thereby rendering this rejection moot. Applicants respectfully request reconsideration and passage to allowance of Claims 1 and 21.

The Rejection of Claims 2, 4-10, 15-17, 22, 24-30, and 35-37 under § 101

The Examiner has rejected Claims 2, 4-10, 15-17, 22, 24-30, and 35-37 as unpatentable under 35 U.S.C. § 101 for statutory double patenting for claiming the same inventions as that of Claims 1-12 in Applicants' prior United States Patent No. 6,709,021 ("the '021 patent"). Applicants have cancelled Claims 2, 4-10, and 15-17 thereby rendering the rejection of those claims moot. Applicants respectfully traverse the rejection of Claims 22, 24-30 and 35-37, all of which depend from independent Claim 21 and request reconsideration.

Applicants courteously point out that Claim 21 differs from both Claim 1 of the instant application and the invention disclosed in the '021 patent. Specifically, Claim 1 of the '021 patent claims a tubular coupling device in which a band having a first and second end is configured so that the first end and second end overlap. The second, or top end, supports an abutment member designed to receive a threaded male member, such as a screw or bolt. The first, or bottom, end supports a threaded female member through which the male threaded member extends to the abutment member. In contrast, Claim 21 of the instant application claims an overlapped tubular coupler in which the abutment member is mounted on the first, or bottom, end of the overlapped band, while the threaded female member is attached to the second, or top, end of the device. Consequently, Applicants respectfully submit that the invention claimed in Claim 21 is not the same as that disclosed or claimed in their '021 patent. For this reason, Claims 22, 24-30, and 35-37, which depend from independent Claim 21 and thus incorporate all

the elements of that claim, are also not the same inventions as the counterpart claims of the '021 patent listed in the current Office Action, namely Claims 1-8 and 10-12, respectively. Applicants respectively request the withdrawal of the statutory double patenting rejection of Claims 22, 24-30, and 35-37 and passage to allowance of those claims.

Allowable Subject Matter

The Examiner has indicated that Claims 3, 11-14, 18-20, 23, 31-34, and 38-40 are objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form to include all the limitations of the base claim and any intervening claims.

Applicants respectfully point that the only rejection of independent base Claims 1 and 21 is a nonstatutory double patenting rejection based on United States Patent No. 6,709,021 issued to Duane J. Duncan and David W. Mielke, Jr., the Applicants in the instant application. Applicants have filed with this Reply a terminal disclaimer in compliance with 37 CFR 1.32 (c) to overcome the nonstatutory double patenting rejection. Applicants respectfully submit that because there are no objections or rejections of any of the instant claims based § 102 for anticipation or § 103 for obviousness, there is no need to rewrite the dependent claims into independent format. For this reason, Applicants respectfully request passage to allowance of Claims 3, 11-14, 18-20, 23, 31-34, and 38-40 as currently written.

Conclusion

Applicant respectfully submits that the present application is now in condition for allowance, which action is courteously requested. The Examiner is invited and encouraged to contact the undersigned attorney of record if such contact will facilitate an efficient examination and allowance of the application.

Respectfully submitted,



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